

REMARKS/ARGUMENTS

The final Office Action dated September 21, 2007 has been carefully considered. Claims 1-12 and 21 and pending in the present application with claim 1 being in independent form. By the present Amendment, claim 1 has been amended in order to further clarify the features of the present application.

Claims 1 and 21 have been rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over U.S. Patent No. 2,657,926 to Price et al. (hereinafter "Price") in view of U.S. Patent No. 5,079,980 to Oaks et al. (hereinafter "Oaks"). In addition, dependent claims 2-12 have been rejected as allegedly being unpatentable in view of Price and Oaks and in combination with several other secondary references. Reconsideration of these rejections is respectfully requested.

As an initial matter, Applicants respectfully request that the finality of the present Office Action be withdrawn in light of the new grounds for rejection presented for claims 3-4 of the present application. The Examiner indicates that the substantial new material regarding the Bruck reference and the rejection of claims 3-4 was intended to be presented in the previous Office Action. The Examiner argues that it was evident to one skilled in the art that the body of the rejection based on Bruck in the present Office Action was fully intended. Applicants must respectfully disagree.

In the previous Office Action the rejection of claims 3-4 was made based on a combination of Price, Oakes and Friberg. While the Examiner made mention of Bruck, the rejection of claims 3 and 4 was not based on Bruck. In contrast, in the present Office Action the rejection of claims 3-4 is based on a combination of Price, Oakes, Friberg and Bruck. The Examiner further provides a detailed discussion of how the cited references allegedly disclose the features of claims 3 and 4. None of this information was present in the previous Office Action. Thus, it is respectfully submitted that the rejection of claims 3-4 in the present Office Action represents new grounds for rejection, and thus, the finality of the present Office Action should be withdrawn in accordance with M.P.E.P. §706.07(a).

Claim 1, as amended herein, relates to an apparatus for indexing a length of film for severance including among other things: a film holder between the linear feed device and the

trimming device on the in feed side of the turning devices that is operable between a first position wherein a gap is provided for the film to pass through during feeding to the trimming device in a second position where the gap is closed so that a whole width of the film is clamped by the film holder and a cutting line which extends transversely of the film feed direction wherein the film is severed by the trimming device at the cutting line. It is respectfully submitted that neither Price nor Oaks disclose such a tool.

The substance of the present Office Action is substantially the same as that of the previous Office Action with the exception of the new grounds presented for the rejection of claims 3-4 discussed above.

In response to the arguments that were set forth in Applicants' previous response dated June 27, 2007, the Examiner argues that Applicants' argument that neither Price nor Oaks teaches or suggests that the film is "clamped along the length of a transverse line on which it is being cut" is not persuasive. The Examiner argues that claim 1 merely recites "the film is clamped by the film holder, along the length of the line extending transversely of the film feed direction and along which the film is severed by the trimming device." The Examiner argues claim 1 should thus be interpreted such that the phrase "along which the film was severed by the trimming device" is read independent from the phrase "along the length of a line extending transversely of the film feed direction," and thus, the location of the severance need not be in the same location as where the film is clamped.

While Applicants do not agree with the Examiner's somewhat strained interpretation of previous claim 1, it is believed that this interpretation is clearly inappropriate in light of the amendments to claim 1 made herein. As is noted above, in amended claim 1, a cutting line extends transversely of the film feed direction and "the film is severed by the trimming device at the cutting line." It is believed that this limitation was clear prior to the present amendment, however, in an effort to advance prosecution of the present application, claim 1 has been amended to make explicit that which was at least implicit in the previous version of claim 1. In light of the changes made to claim 1 herein, it is clear that Price and Oakes fail to disclose all of the features of claim 1 since they fail to disclose that "the film is severed by the trimming device at the cutting line." In Price, the Examiner admits that finger 70 is spaced apart from the knife 52, and thus, the film is not cut along the line that it is clamped at. Further, in Oakes, the spacing

bar 130 is clearly separated from the blades 122 and 164, and thus, the film in Oaks is not clamped at the cutting line.

In addition, the Examiner has argued that claim 1 does not require that the film holder extend along the whole film. Applicants previously argued that claim 1 requires that the film is clamped by the film holder along the line extending transversely of the film feed direction along which the film is severed by the trimming device. The Examiner indicates that it is unclear how this limitation requires that the line extend along the entire film. While it is believed that it is clear that a line along which a film is severed must extend across the entire film in order for the film to be severed, amended claim 1 is believed to provide further clarification of this feature. Amended claim 1 specifies that "a whole width of the film is clamped by the film holder and a cutting line extending transversely of the film feed direction wherein the film is severed by the trimming device at the cutting line. Once again amended claim 1 makes it clear that the film is indeed clamped along the same line on which it is being severed or cut and once again it is respectfully submitted that the art cited by the Examiner does not disclose this feature. As noted above, in both Price and Oakes, the film is not clamped along the line on which it is cut.

Accordingly, it is respectfully submitted that claim 1, and the claims depending therefrom, are patentable over the cited art for at least the reasons described above.

Claims 2-12 and 21 depend from claim 1, either directly or indirectly. None of the references cited by the Examiner show or suggest the features of claim 1 as described above, and thus, it is respectfully submitted that these claims are also patentable over the cited art.

In light of the remarks and amendments made herein, it is respectfully submitted that claims 1-12 and 21 of the present application are patentable over the cited art and are in condition for allowance.

Favorable reconsideration of the application is respectfully requested.

Respectfully submitted,

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RCF:KJB/jl

A handwritten signature in cursive script, reading "Robert C. Faber", written in dark ink. The signature is positioned above a horizontal line.

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